

on the counts that I have let go to you, one of your number will sign this as it stands, as foreman. If you find defendant not guilty you will add the word "not" in the form that I have had prepared for you. You may find defendant guilty on any one, two, or three, or more counts, and not guilty upon the others. You may find defendant not guilty upon all, or you may find defendant guilty upon all counts, according as you may find the facts to be. Your verdict, of course, must be unanimous. You have nothing to do with fixing the punishment. You merely find defendant guilty or not guilty, and so say by your verdict, and the court fixes the punishment.

I shall let you return a sealed verdict. When you have agreed upon a verdict you may enclose it in an envelope and hand it to the clerk, and on Monday morning at 10 o'clock you will return and I shall open the verdict and it will be read.

The jury then retired and after due deliberation returned a verdict of guilty, on May 16, 1921, on counts 1, 2, 3, 4, 7, 8, 9, 10, 11, and 12, and on April 4, 1922, the court imposed a fine of \$200 on each count, a total of \$2,000 and costs. As will appear from the above-quoted charge to the jury, the court directed a verdict for the defendant with respect to counts 5 and 6, involving the product invoiced as "Amaranth," and counts 13 and 14, involving the product invoiced and labeled as "Caramella." The defendant filed its motion for a new trial and in arrest of judgment, which was overruled, but has not as yet perfected an appeal from the judgment of the trial court.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10372. Misbranding of Howell's Lymphine tablets. U. S. * * * v. One Dozen Packages * * * of Howell's Lymphine Tablets. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 13571. I. S. No. 8764-t. S. No. E-2632.)

On August 26, 1920, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the District aforesaid, holding a district court, a libel for the seizure and condemnation of one dozen packages of Howell's Lymphine tablets, at Washington, D. C., alleging that the article had been shipped by Charles H. Howells & Co., New York, N. Y., on or about June 8, 1920, and transported from the State of New York into the District of Columbia, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the pills consisted essentially of ferrous carbonate, nuxvomica, aloes, and phosphorus.

Misbranding of the article was alleged in substance in the libel for the reason that the labeling bore, among others, the following statements, (wrapper and bottle labels) "* * * Nervous Prostration, Dyspepsia, Nervous Indigestion, * * * Catarrh, Melancholia, Women At Change Of Life, Premature Decay And All Nervous And Mental Diseases * * *," (circular) "* * * Lymphine Tablets * * * Vitalizer * * * Restore Nerve and Brain Tissues * * * Relieve All Forms Of Weakness * * * not only alleviate, but in many cases cure mental and physical diseases * * * such as Neurasthenia, or Nervous Prostration, Depleted Nerve Force, Impoverished or Impure Blood, Diseases of the Digestive or Eliminative System, Nervous Dyspepsia, Female Disorders attendant on the 'Change of Life,' Irregularities of Uterine Troubles generally, etc. * * * Improve Vital Powers In Both Sexes * * * of inestimable value to sufferers from locomotor ataxia * * * Debility * * * Restore Youthful Vigor And Elasticity * * * Melancholia * * * For All Nervous And Mental Disorders * * * Liquor and Drug Addictions * * * The Best Remedy In Female Disorders * * * Catarrh * * *," which statements regarding the curative and therapeutic effect of the said article and the ingredients and substances contained therein were false and fraudulent for the reason that the said article contained no ingredients or combination of ingredients in sufficient quantity and strength capable of producing the effect claimed.

On April 11, 1922, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*